IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03/10/2002

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.36515 of 2002

M/s.Pescados Sebal Exports
(P) Ltd, rep. by its Director
P.V.Viju, 18/1555, Pallichal
Road, Cochin-682 005. .. Petitioner

-Vs-

1. The Sub Registrar
Office of the Sub-Registrar
3/103, Anna Nagar, Thondi
Tamil Nadu.

2. The Registrar (Administration)
Registration Department
Karaikudi, Ramnad District.

3. The Assistant Executive Engineer
Office of the Sub-Registrar
Registration Department
Madurai. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India praying for a writ of Certiorari as stated therein.

For Petitioner : Mr.K.S.Gnanasambandan

For Respondents: Mr.D.Krishnakumar
Spl. Government Pleader

:ORDER

Complaining that the petitioner-Company had undervalued the property which was conveyed under the sale deed dated 11.6.2002, the first respondent, by impugned proceedings dated 6.9.2002, demanded payment of additional stamp duty for a sum of Rs.3,50,708/-, additional registration charge of Rs.29,320/-, and a further sum of Rs.62/- towards additional charges, thus totaling a sum of Rs.3,80,000/-. Aggrieved, by the proceedings of the first respondent dated 6.9.2002, the petitioner seeks a writ of Certiorari to call for the records on the file of the first respondent herein in respect of his order in proceedings No.353/2000 dated 6.9.2000 confirming the order of the

second respondent passed in his proceedings N.K.No.6886.A3/2002, dated 6.9.2002 and confirming the order of the third respondent passed in his proceedings M.M.No.9815/E/02, dated 3.9.2002 assessing the value of the property at Rs.35,57,440/-, quash the same and to consequently direct the first respondent to release the document No.353/2002.

2. On instructions from the respondents, Mr.D.Krishna Kumar, learned Special Government Pleader reports that the said sale deed dated 11.6.2002 has already been returned to the petitioner as per the earlier instructions of this court dated 31.7.2002 made in W.P.No.31448 of 2 002.

3. Admittedly, what was conveyed under the sale deed dated 11.6.2002 is only land and building but not the machineries implanted therein, even though the agreement of sale dated 1.4.2002 refers to the machineries.
4. It is well settled in law that what was conveyed under the sale deed alone is relevant for the purpose of demanding stamp duty and registration charges, but not either the agreement of sale based on which the sale is executed or the finding of the Inspecting Authority at the time of inspection, because the intention of the vendor and the purchaser as expressly conveyed under the sale deed alone would be the relevant criteria. Therefore, making it clear that the purchaser shall not have any right or title over the machineries that are not governed under the sale deed dated 11.6.2002 and consequently, the respondents shall not claim any additional stamp duty or registration charge for the sale of machineries, which are not governed under the sale deed dated 11.6.2002, the impugned proceedings of the first respondent dated 6.9.2002 is quashed and the writ petition is allowed as prayed for. No costs. Consequently, W.P.M.P.No.54919 of 2002 is closed.

Index :Yes
Internet:Yes
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To:
1. The Sub Registrar
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3/103, Anna Nagar, Thondi
Tamil Nadu.

2. The Registrar (Administration)
Registration Department
Karaikudi, Ramnad District.

3. The Assistant Executive Engineer
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